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Attorneys for Nonparty
Muddy Waters Capital LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

In re BANC OF CALIFORNIA
SECURITIES LITIGATION

Case No. 8:17-cv-00118-DMG (DFMx)

CLASS ACTION

This Document Relates To:

ALL ACTIONS.

**DECLARATION OF DILAN A.
ESPER IN SUPPORT OF REQUEST
BY MUDDY WATERS CAPITAL
LLC TO SET AMOUNT OF
ATTORNEYS' FEES**

DECLARATION OF DILAN A. ESPER

1 I, Dilan A. Esper, hereby declare:

2 1. I am an attorney with the law firm Harder Stonerock LLP, counsel of
3 record for nonparty Muddy Waters Capital LLC (“Muddy Waters”). I am duly
4 licensed to practice before all courts of the State of California and in the U.S. District
5 Court for the Central District of California, among other courts. I make this
6 declaration based on my own personal knowledge except as to matters that are stated
7 upon information and belief, which are believed by me to be true, and if called and
8 sworn as a witness, I could and would competently testify hereto.

9 2. I file this declaration in response to the Court’s order dated September 30
10 and entered October 7, 2024, which calls for a declaration of Muddy Waters’
11 reasonable attorneys’ fees and costs with an itemized accounting. To be clear, in
12 addition to the fees incurred in the preparation of the contempt motion, Muddy
13 Waters also respectfully requests the Court award additional attorneys’ fees that it
14 incurred as a result of the contemnors’ conduct. This declaration and the
15 accompanying declarations of Muddy Waters’ other lawyers set all these fees out;
16 however, we also make clear what fees were incurred bringing the contempt motion
17 itself.

18 **Document Subpoenas**

19 3. This was a securities fraud class action brought by investors against Banc
20 of California, Inc.; its former president and CEO, Steven A. Sugarman (“Sugarman”);
21 and its CFO.

22 4. Muddy Waters is an investment adviser based in Austin, Texas. Neither
23 Muddy Waters nor any individual associated with Muddy Waters was a party herein,
24 nor is either referenced in the Complaint. *See* Dkt. 1 (filed Jan. 23, 2017).

25 5. In September 2018, Sugarman served Muddy Waters and funds it
26 manages with Subpoenas to Produce Documents, Information, or Objects.

27 6. Muddy Waters retained the law firm of Consovoy McCarthy PLLC to
28 move to quash the subpoenas in October 2018. *See In re Subpoenas to Produce*

1 *Documents, Information or Objects to Muddy Waters Capital LLC, MLAF LP and*
2 *SS&C Technologies, Inc.*, No. 2:18-mc-147, Dkt. 1 (C.D. Cal.). In January 2019, U.S.
3 Magistrate Judge Douglas F. McCormick granted the motion to quash as to eight of
4 Sugarman's ten requests and required Muddy Waters to produce documents in
5 response to only two of Sugarman's requests.

6 7. Filed concurrently herewith is a Declaration of Patrick Strawbridge, a
7 partner with Consovoy McCarthy, attaching that firm's invoices rendered to Muddy
8 Waters in this and the related matters. They reflect a cumulative total of **\$136,840.48**
9 billed to and paid by the client to Consovoy McCarthy.

10 **Motion for Sanctions**

11 8. My firm, Harder Stonerock LLP, represented Muddy Waters primarily in
12 connection with the instant motion for sanctions.

13 9. Attached hereto as Exhibits A–M are redacted copies of client invoices
14 reflecting the attorney time and corresponding attorneys' fees as well as costs billed to
15 Muddy Waters by my firm.

- 16 • **Exhibit A:** Invoice 9530 - 6/30/2023 **\$58,297.15**
- 17 • **Exhibit B:** Invoice 9609 - 7/31/2023 **\$28,575.00**
- 18 • **Exhibit C:** Invoice 9670 - 8/31/2023 **\$25,435.19**
- 19 • **Exhibit D:** Invoice 9730 - 9/30/2023 **\$29,632.85**
- 20 • **Exhibit E:** Invoice 9788 - 10/31/2023 **\$74,440.67**
- 21 • **Exhibit F:** Invoice 9846 - 11/30/2023 **\$56,652.05**
- 22 • **Exhibit G:** Invoice 9907 - 12/31/2023 **\$21,917.69**
- 23 • **Exhibit H:** Invoice 9950 - 1/31/2024 **\$6,800.00**
- 24 • **Exhibit I:** Invoice 10000 - 2/29/2024 **\$4,125.00**
- 25 • **Exhibit J:** Invoice 10034 - 3/31/2024 **\$425.00**
- 26 • **Exhibit K:** Invoice 10167 - 5/31/2024 **\$2,250.00**
- 27 • **Exhibit L:** Invoice 10194 - 6/30/2024 **\$7,987.50**
- 28 • **Exhibit M:** Invoice 10278 - 7/31/24 **\$5,429.35**

1 I have reviewed these billing records, which are accurate to my knowledge.

2 10. As of July 31, 2024, Harder Stonerock LLP had billed Muddy Waters
3 \$321,967.45 in attorneys' fees and expenses in this matter. Muddy Waters paid all
4 such invoices. In addition to the time reflected on the billing records attached hereto
5 as Exhibits A–M, my firm also expended at least an additional 12 hours in attorney
6 time researching and preparing this declaration, totaling another \$9,000, for a
7 cumulative total of **\$330,967.45**.

8 11. When I initiated the Local Rule 7-3 meet and confer process regarding
9 Muddy Waters' motion for sanctions in August 2023, Sugarman's attorneys at
10 Latham and Watkins LLP as well as Michelman & Robinson, LLP directly responded
11 the following month by (among other things) erroneously accusing both my law firm
12 and our client of possibly having improperly received privileged or confidential
13 communications between them and Sugarman. Significant attorney time (reflected in
14 Exhibits D and E) was necessarily incurred dispelling those unfounded charges.

15 12. Furthermore, on October 20, 2023 (the very same day that Muddy
16 Waters filed its motion for sanctions) and again on November 3, 2023, Sugarman's
17 company collaterally served Muddy Waters and my firm with document subpoenas in
18 *Levine v. The Change Company CDFI LLC, et al.*, Orange County Superior Court
19 Case No. 30-2023-0133 1710-CU-WT-CJC, a wrongful termination and
20 whistleblower retaliation lawsuit by Adam Levine against The Change Company.
21 Even more attorney time (reflected in Exhibits E and F) was necessarily incurred
22 addressing those improvident subpoenas, which sought to test Sugarman's unfounded
23 charges that Muddy Waters and Harder Stonerock LLP had improperly received
24 copies of his privileged or confidential written communications.

25 **Law Firm and Attorneys**

26 13. Harder Stonerock LLP is a law firm based in Los Angeles, with offices
27 in New York, that specializes in litigation and reputation protection. Our focus is on
28 business, media, defamation, privacy, First Amendment, anti-SLAPP, entertainment

1 and intellectual property cases. More information is available at <http://harderllp.com/about-us/>.

2
3 14. I am lead litigation counsel for Muddy Waters in connection with this
4 sanctions motion. The other attorneys listed below worked at my direction and under
5 my supervision:

6 • **Dilan Esper** (designated as “DE” in the bills attached as Exhibits A–M
7 hereto): I am a senior attorney at Harder Stonerock LLP, and have been practicing law
8 for nearly 29 years representing both plaintiffs and defendants in intellectual property,
9 media and general business litigation in state and federal court, arbitrations,
10 mediations and administrative proceedings. I have authored a number of appellate
11 briefs and petitions, including in the California Supreme Court and the United States
12 Supreme Court. I am a 1995 graduate of the University of Southern California, where
13 I was Order of the Coif and an Editor of the *Southern California Law Review*.
14 Additional information about my professional background is available on Harder
15 Stonerock LLP’s website at <https://harderllp.com/attorneys/dilan-a-esper/>.

16 • **Ryan Stonerock** (designated as “RS” in the bills attached as Exhibits A–
17 M hereto): Mr. Stonerock is a partner at Harder Stonerock LLP, and has been
18 practicing law for nearly 18 years. He has represented numerous high profile
19 individuals and companies in connection with the publication of false and defamatory
20 statements, unauthorized images and private information. He has been named a
21 Southern California “Rising Star” by Super Lawyers in 2009, 2010 and 2013–2017 in
22 the area of Entertainment & Sports. Prior to joining Harder Stonerock LLP, Mr.
23 Stonerock was a partner at the Los Angeles law firm Wolf Rifkin Shapiro Schulman
24 & Rabkin LLP. He is a 2006 graduate of Georgetown Law School. His full profile is
25 available at <https://harderllp.com/attorneys/ryan-j-stonerock/>.

26 • **Henry Self** (designated as “HS” in the bills attached as Exhibits A–M
27 hereto): Mr. Self is an entertainment, media and intellectual property attorney with
28 nearly 22 years of experience representing clients in a variety of transactional and

1 litigation matters. His practice areas include contracts, rights of privacy and publicity,
2 defamation, copyright and trademark law, among others. He has taken part in
3 precedent-setting published cases in both state and federal courts, and also authored
4 various publications in his fields of expertise. He studied law at the University of
5 California Los Angeles, where he served as Articles Editor of the *UCLA*
6 *Entertainment Law Review* and was a member of the Moot Court Honors Program
7 national team. Mr. Self's full profile is available at <http://harderllp.com/attorneys/henry-l-self/>.

9 • **Emmanuel Fua** (designated as "EF" in the bills attached as Exhibits A–
10 M hereto): Mr. Fua is an experienced litigator who has represented clients in the
11 finance, technology and entertainment industries, among others, for over a decade. He
12 has achieved successful outcomes for clients in multiple trial and appellate courts
13 across the country, as well as in private arbitrations. Mr. Fua has effectively litigated a
14 wide variety of cases, ranging from securities fraud and contract disputes to
15 defamation and trademark disputes. He has been an integral member of numerous trial
16 teams and the principal drafter of dozens of trial and appellate briefs. He has also
17 argued motions, examined witnesses in court and depositions, and managed all
18 aspects of complex e-discovery. Mr. Fua's full profile is available at <https://www.bakerlaw.com/professionals/emmanuel-b-fua/>.

20 **Minnesota and California Litigation**

21 15. In addition to the third-party subpoenas in this case and *Levine v. The*
22 *Change Company* discussed *supra*, Sugarman also unsuccessfully sued our client in
23 the United States District Court for the Northern District of California (Case No. 19-
24 cv-4248); the United States District Court for the Central District of California (Case
25 No. 21-cv-1453); and Minnesota state court (Hennepin County District Court File No.
26 27-CV-21-11850).

27 16. Sugarman unsuccessfully appealed to the Minnesota Court of Appeals
28 twice. *See Sugarman v. Muddy Waters Capital, LLC*, No. A22-0659, 2022 WL

1 16910577 (Minn. App. Nov. 14, 2022); and *Sugarman v. Muddy Waters Capital,*
2 *LLC*, No. A23-1906, 2024 WL 2813944 (Minn. App. June 3, 2024).

3 17. Muddy Waters retained the law firm of Davis Wright Tremaine LLP to
4 defend it in those proceedings. Filed concurrently herewith is a Declaration of
5 Ambika Kumar, a partner with the firm, attaching Davis Wright Tremaine LLP's
6 invoices rendered to Muddy Waters. They reflect a cumulative total of **\$691,943.84**
7 (\$685,866 in fees plus \$6,077.84 in costs) billed to and paid by the client.

8 I declare under penalty of perjury under the laws of the United States of
9 America that the foregoing is true and correct.

10 Executed on October 21, 2024 in Los Angeles, California.

11
12 
13 DILAN A. ESPER